

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL STERLING,

Plaintiff,

v.

Civil Action No.: 1:11-cv-00639-RJA

MERCANTILE ADJUSTMENT
BUREAU, LLC,

Defendant.

STIPULATION AND ORDER

Plaintiff, Paul Sterling (“Sterling”), and defendant, Mercantile Adjustment Bureau, LLC (“MAB”), have reached the following resolution:

1. Sterling has asserted claims against MAB under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.* (Count I), and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 (Count II).
2. Sterling accepted an Offer of Judgment relating to the FDCPA claim (Count I) only. *See* Docket No. 26. The judgment has been satisfied. *See* Docket No. 43.
3. As to the remaining claim, on November 22, 2013, Magistrate Judge McCarthy issued a Report and Recommendation, recommending summary judgment in favor of Sterling on his TCPA claim in Count II. *See* Docket No. 46. However, the Court did *not* recommend damages, costs, interest, expenses, or attorney’s fees to Sterling for his TCPA claim (Counts II). *Id.*
4. On March 25, 2014, Judge Arcara issued an Order adopting the Report and

Recommendation. *See* Docket No. 54. Like the Report and Recommendation, Judge Arcara's Order did *not* recommend damages, costs, interest, expenses, or attorney's fees to Sterling for his TCPA claim (Counts II). *Id.*

5. To expedite the remaining legal issues, the parties have agreed to enter this Stipulation and Order, while preserving the right for MAB to appeal liability on the TCPA claim.

6. The parties have reached an agreement on damages, costs, interest, expenses, and attorney's fees. To the extent there is liability, the parties stipulate damages, costs, interest, expenses, and attorney's fees relating to Sterling's TCPA claim (Count II) are set at \$12,500.

WHEREFORE, per the agreed-upon stipulation, the parties respectfully request this Court enter judgment for Sterling for \$12,500 for his TCPA claim (Count II), while preserving the right for MAB to appeal liability of the related TCPA claim.

It is so ORDERED.

Richard J. Arcara
United States District Judge

Respectfully Submitted and Stipulated,

/s/Seth Andrews
Seth Andrews, Esq.
LAW OFFICES OF KENNETH
HILLER, PLLC
Counsel for Plaintiff,
Paul Sterling

April 3, 2014
Date

/s/Michael D. Alltmont
Michael D. Alltmont, Esq.
SESSIONS, FISHMAN, NATHAN &
ISRAEL, LLC
Counsel for Defendant,
Mercantile Adjustment Bureau, LLC

April 3, 2014
Date

CERTIFICATE OF SERVICE

On April 3, 2014, a copy of this document was filed via the Court's ECF system.

/s/ Michael D. Alltmont
Michael D. Alltmont – PHV (La Bar. No. 32318)

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